

<p align="center"><b>DEPARTMENT FOR MH/MR SERVICES</b></p> <p align="center"><b>POLICIES AND PROCEDURES STANDARDS OF OPERATIONS</b></p>	<p>Policy Number</p> <p align="center"><b>DMHMRS 04-06</b></p>	<p>Total Pages</p> <p align="center"><b>5</b></p>
	<p>Date Issued</p> <p><b>May 31, 2005</b></p>	<p>Effective Date</p> <p><b>May 31, 2005</b></p>
<p>References</p> <p>KRS 194A.060, 209.010, 209.020, 209.030, 209.100, 209.140, 620.010, 620.020, 620.030 § 164.502, 164.504, 164.510, 164.512</p>	<p>Subject</p> <p><b>Risk Review</b></p>	

### **Statement of Policy and Purpose**

It shall be the policy of the Department for Mental Health and Mental Retardation Services (DMHMRS) to promote a therapeutic environment that is free from harm for individuals accessing residential or community based services administered by the Department. DMHMRS shall establish a Risk Review Committee that will review critical incidents with a goal to balance the quality of life and self-determination of the individuals and to ensure safety to the greatest possible extent.

### **Procedure**

#### **A. Risk Review Committee**

1. The Commissioner or his designee shall appoint a 10-member Risk Review Committee that shall include:
  - a. the Facility Operations Director, who shall serve as Committee Chair;
  - b. the Department's Chief Investigation Officer;
  - c. the Facility Incident Management Coordinator;
  - d. a Division of Mental Retardation (DMR) representative for the Supports for Community Living (SCL) Waiver;
  - e. a DMR representative for State General Fund (SGF) programs;
  - f. a Division of Mental Health and Substance Abuse (DMHSA) representative for mental health services;
  - g. a DMHSA representative for substance abuse services;
  - h. a DMHSA representative for Acquired Brain Injury (ABI) services;

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- i. a DMHSA representative for IMPACT Plus services;
  - j. a representative from the Mortality Review Committee.
2. The Committee shall meet monthly at an established time and place. Committee meetings shall be under the direction of the Chair.
3. The Committee Chair shall name a recording secretary. The secretary will not be included as a part of the 10-members. The secretary duties shall include preparation and distribution of the meeting minutes and any Committee correspondence. DMHMRS Executive staff and Committee members shall receive copies of each meeting minutes prior to the date of the next scheduled meeting. Minutes of each meeting shall be prepared and maintained based on an established agenda that shall include:
  - a. critical incidents;
  - b. resolutions to critical incidents;
  - c. remedial and restorative measures;
  - d. any recommendations to the Commissioner.

**B. Definition of “Critical Incidents”**

1. Incidents of abuse, neglect, or exploitation substantiated by the Department for Community Based Services (DCBS), the Office of Inspector General (OIG) or DMHMRS investigators.
2. Suicide of an individual receiving 24-hour residential service.
3. Medication errors resulting in death, coma, paralysis or other major permanent loss of function.
4. Incidents resulting in negative media attention, involvement of law enforcement or have the potential to impact the health and safety of the community.
5. An incident or complaint that generates an investigation by any state or federal agency.
6. Any incident that results in death or major permanent loss of function that may include a criminal activity, an elopement, a fall or injury.

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7. The Committee shall maintain the discretion to review any other significant incident deemed to merit further review or as recommended by an incident manager or investigator.

#### C. Risk Review and Analysis

1. Services and programs to be reviewed shall include certified or contracted community based services, state owned, managed or contracted psychiatric facilities; state owned, managed or contracted intermediate care facility for individuals with mental retardation or a developmental disability (ICF/MR); and state owned, managed or operated nursing facilities.
2. In a format and manner determined by the Committee, members shall function as presenters of monthly critical incident data and data for preceding months until critical incidents are satisfactorily resolved.
3. Presentation of monthly critical incident data shall include any corrective action taken by the residential or community based service provider and any oversight efforts or actions mandated by DMHMRS to remediate or restore the situation.
4. Committee members may ask presenters questions to offer problem solving solutions or recommend additional corrective action.
5. Committee members, by consensus, shall agree upon the corrective action. The Commissioner, upon review, shall make the final determination if the Committee can not reach consensus. The Commissioner may consult with the Department's executive staff before making a final determination. (NOTE: Consensus is defined as an opinion held by all or most; general agreement).
6. The Committee shall be authorized to recommend to the Commissioner or his designee progressive remedial or restorative actions to mitigate risk.
7. The Risk Review Committee has a responsibility to recommend appropriate remedial and restorative measures for facilities and certified or contracted service providers. Committee recommendations shall be progressive by design, intended to correct and decrease critical incident conditions to ensure that healthy and safe therapeutic surroundings are restored and maintained.

#### D. Remedial and Restorative Measures

1. When it is determined by the Risk Review Committee, upon the conclusion of the monthly incident data presentations, that DMHMRS should take action to address a critical incident condition, the following progressive recommendations will be provided to the Commissioner's Office, as appropriate:

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a. Internal Remedial Measures

1. The Risk Review Committee will establish a 30-day remedial action plan, in conjunction with program staff, and request a follow up meeting to review the outcomes of the plan. The Committee will identify other potential DMHMRS actions during the follow up meeting, in collaboration with the program staff.

b. External Restorative Measures

1. When the Risk Review Committee determines that an agency has insufficiently responded to the established action plan or remedial requests, the Committee will draft a letter for the Commissioner requesting appropriate restorative measures. The agency will be given 15-calendar days to comply. The agency will also be advised in the letter that a Department-level investigation may be conducted.
2. When the Risk Review Committee determines the agency's response to the Commissioner's request is inadequate, the Committee will recommend that a Department-level investigation be scheduled at the agency within 30-days. The Committee will review the conclusions of the Department-level investigation and advise the Commissioner of the findings.

c. Administrative Process

1. When the Risk Review Committee determines that the agency has repeatedly failed to satisfactorily resolve the critical incident condition, the Committee will recommend to the Commissioner that the responsible DMHMRS Division initiate appropriate administrative process against the agency. The Committee may serve in a consulting capacity to the Commissioner and responsible division during the administrative process.

E. Additional Activities of the Risk Review Committee

1. The Commissioner or Committee may deem it necessary for a subcommittee to be developed to research, evaluate and report on a specific issue. A member of the Committee will chair subcommittee initiatives and request participation from DMHMRS staff that may or may not include members of the Risk Review Committee. Participation will be determined by subject matter and staff expertise. Standing subcommittees, with a specific function, will be recognized as the following:

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- a. The Committee will publish an annual statistical report, in a format determined by the Commissioner's Office, reviewing all critical incident data during the preceding 12-month period. DMHMRS divisions shall provide administrative support.
    - b. The Committee will develop short-range and long-range action plans that recommend systemic improvements to the risk review and incident management processes utilized by DMHMRS.
    - c. The Committee will prepare an annual report on best practices. The report content shall be determined by the review analysis of critical incidents.
  2. The Committee shall annually review the incident management protocols for facilities and each division, and provide recommendations for revisions as necessary.
- F. This policy shall be reviewed annually and revised as necessary.

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**Commissioner**

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**Date**